

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/523,338 03/10/00 FLOURDE

E 769-254

EXAMINER

QM12/0806

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ART UNIT

PAPER NUMBER

3721

DATE MAILED:

08/06/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

09/523,338

Applicant(s)

PLOURDE ET AL.

Examiner

Eugene Kim

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 6-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5, 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cetrelli in view of Applicant's admitted prior art. Cetrelli shows the method of providing vent apertures to a web component wherein a line of vent apertures 7 are oriented in a direction that is not parallel to the vertical direction. Cetrelli discloses that a roller with depressions to form apertures 7 forms the apertures 7. Cetrelli discloses that the apertures 7 provide good ventilation without any kind of weakening of the packing material (col 4 lines 36-51). Cetrelli does not specifically show the roller means in combination with an anvil. Applicant's admitted prior art, hereinafter, AAPA, disclose that the prior art slit perforations use a round wheel against an anvil roller (p. 1 lines 16+). AAPA also disclose that a large number of slits are required to evacuate air (p.2 lines 12+). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Cetrelli with cutting wheels and anvil means and to make a large number of apertures as taught by AAPA to form depressions in the workpiece using conventional methods. The only way to cut the apertures 7 of Cetrelli is to move the cutting wheel in a direction that is transverse to the direction of the apertures.

Regarding claims 2 and 11, this is the conventional way to form slits as shown in figure

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1 wherein the teeth are parallel to the cutting axis. Regarding claim 5, it is well known in the art to use zipper tape means. Regarding the repeating step, examiner notes as discussed supra that AAPA discloses that a large number of apertures are required to evacuate air and it would have been obvious to one of ordinary skill in the art at the time of the invention to provide Cetrelli in view of AAPA with a large number of slits by repeating the cutting step.

3. Applicant's arguments filed 7/10/02 have been fully considered but they are not persuasive.

The examiner first notes that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. For example, there is no limitation requiring ventilation to be in the interior of the package. See *in re Van Geuns*, 988 F.2d 1181, 26 USPQ 2d 1057 (Fed Cir 1993).

Regarding applicant's argument regarding the weakening of the web in Cetrelli, the examiner first notes that there is no limitation in the claim regarding this limitation. Furthermore, Cetrelli discloses that there is no weakening of the packing material (col 4 lines 50+).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eugene Kim whose telephone number is (703)308-1886. The examiner can normally be reached on Tuesday-Friday 7:30 a.m - 6:00 p.m.

The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3579 for regular communications and (703)305-3579 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1148.

A handwritten signature in black ink, appearing to read "Eugene Kim", with a stylized flourish at the end.

Eugene Kim  
July 29, 2002